THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.25675 OF2005

DATED:2.12.2005

Between:

P. Surya Bhagavan

…Petitioner

And

The District Level Sand Auction Committee,

Kakinada, East Godavari District,

Rep. by the District Panchayat Officer/Member and Convenor

and another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.25675 OF 2005

ORDER:

The petitioner seeks a Writ of Mandamus seeking a direction to the respondents to extend the temporary permit from 3.12.2005 to 14.12.2005 for quarrying sand in Godavari Reach No.7.

It is the case of the petitioner that pursuant to auction conducted in October 2005, the petitioner became highest bidder for grant of temporary permit in package No.7 of Godavari Reach No.7. Accordingly, he was granted temporary permit for a period of eleven days from 5.10.2005 to 15.10.2005. The same was extended for another period of fifteen days and ultimately he also got another extension upto 2.12.2005. In the meanwhile, the District Level Committee (DLC), first respondent, announced

public auction as required under Rule 9-B(1) of the A.P. Minor Mineral Concession Rules, 1966 (for short, the Rules). The petitioner thereafter approached the respondents to extend the lease for another period of twelve days from 3.12.2005 to 14.12.2005, in vain. Therefore, present Writ Petition is filed.

Learned counsel for the petitioner, Sri Badana Bhaskara Rao, relied on Rule 9-L of the Rules in support of the contention that it is competent for the DLC to extend temporary lease upto a period of sixty days and therefore the inaction on the part of the first respondent is illegal. This contention is refuted by the learned Assistant Government Pleader for Panchayat Raj.

The submission made by the learned counsel for the petitioner that a duty is cast upon DLC to issue temporary permit for a total period of sixty days is misconceived. Rule 9-L of the Rules springs into action in two situations. First, when after expiry of the existing lease, if the existing lessee offers to continue the lease by enhancing the lease amount by 10%, it is open to DLC to extend the lease for a period of sixty days. In the second situation, in the event of DLC deciding not to lease out or, an area is not leased out, the Committee may grant temporary lease not exceeding fifteen days by following the method of inviting bids for grant of temporary lease. A person who got temporary lease to quarry sand in a particular reach has no right to compel the competent authority to extend lease for a period of sixty days. In that view of the matter, the petitioner has no right that can be enforced in a petition under Article 226 of the Constitution of India.

The Writ Petition is therefore dismissed *in limini*.

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(V.V.S.RAO, J)

2.12.2005

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